

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

FAUSTINO XAVIER BETANCOURT-COLON

Plaintiff

Vs.

PLAZA CAPARRAA LLC; BARAKAH TWO
THOUSAND DRUGS LLC; CARIBBEAN RETAIL
VENTURES, INC.; NEW YORK DEPARTMENT
STORES DE PUERTO RICO, INC. QUINTANA
RESTAURANT MANAGEMENT LLC; MAGDALENA
INC.; LABORATORIO CLÍNICO PLAZA CAPARRA
INC.

Defendants

CIVIL NO.

NOTICE OF REMOVAL

TO THE HONORABLE COURT:

COMES NOW co-defendant PLAZA CAPARRA, LLC ("Plaza Caparra"), through its undersigned counsel, and respectfully states and prays:

1. On January 1, 2024, Plaintiff Faustino Xavier Betancourt-Colón (hereinafter, "Betancourt" or "Plaintiff") filed a civil action before the Commonwealth of Puerto Rico's Court of First Instance, Bayamón Superior Court, under Civil No. GB2024CV00023 against the above caption co-defendants.

2. On February 5, 2024, the appearing co-defendant was served with service of process. The Complaint and service of process of summons are included with this notice and are identified as Exhibits 1 and 2, respectively.

3. As outlined in the Complaint, the Plaintiff, Faustino Xavier Betancourt-Colón, alleges that the Defendants have violated the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §12101 et seq.)

by failing to comply with the Standards for Accessible Design. These violations pertain to the appearing co-defendant and other co-defendants who are Plaza Caparra Shopping Center tenants.

4. As the case in question is a civil action arising under the Constitution, laws, or treaties of the United States, this Honorable Court has original jurisdiction pursuant to 28 U.S.C. § 1331, which grants the United States district courts original jurisdiction over all civil actions that present a federal question.

5. Accordingly, it is removable to this District Court under 28 U.S.C. §1441(a), which states, as pertinent, that: *“any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”*

6. Removal of the action is timely under 28 U.S.C. § 1446, as this Notice is being filed within 30 days after receipt of a copy of the Plaintiff's Complaint (February 5, 2024).

7. As required by 28 U.S.C. § 1446 (procedure for removal of civil actions), Plaza includes with this notice a copy of all processes, pleadings, and orders served on the appearing party to date:

(A) Complaint (Exhibit 1).

(B) Service of process of Summons (Exhibit 2).

8. As these exhibits are in Spanish, on this same date, a motion requesting leave to file Spanish-language documents pending submission of their certified translations was filed with the Honorable Court.

9. All co-defendants have been apprised of the intention to remove this case to the federal court. As of March 6, 2024, only Magdalena, Inc. has expressly provided consent. While the remaining co-defendants have not yet communicated their stance on this matter, none have raised an expressed opposition to the removal. This Honorable Court needs to be aware that the state court records do not furnish evidence of service for each co-defendant. Thus, it remains uncertain which co-defendants have been officially served with a copy of the Complaint. This submission is made in good faith, in consideration of the time frame

imposed by law, and based on the absence of any objections to the removal of this case to the federal jurisdiction.

10. Pursuant to 28 U.S.C. § 1446(d), upon filing this Notice of Removal, Plaza Caparra will file a copy with the Commonwealth of Puerto Rico's Court of First Instance, Bayamón Superior Court, and will further serve a copy upon the Plaintiff.

11. Co-defendant Plaza Caparra's removal of this action from the Commonwealth of Puerto Rico's Court of First Instance, Bayamón Superior Court, does not constitute a waiver of any available defenses or an admission of any of the allegations contained in the Plaintiff's Complaint.

WHEREFORE, the appearing party, Plaza Caparra, respectfully prays that this Honorable Court takes notice of the removal of Civil No. GB2024CV00023 and include it in its docket, with the appropriate assignment of a case docket number.

RESPECTFULLY SUBMITTED.

CERTIFICATE OF SERVICE: I hereby certify that on this same date, I electronically filed a copy of the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all parties.

In San Juan, Puerto Rico, this 6th day of March 2024.

s/Alondra Fraga Meléndez

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